

1 MR. MONTGOMERY: There was an inconsistent  
2 statement between the testimony of Officer Nelson, who  
3 pulled over the Explorer. He testified that my client,  
4 Mr. Baker, was nervous and was sweating, and then, I  
5 think, the report from Special Agent Beaumont indicated  
6 that actually the officer informed that Dashawn Brown  
7 was nervous and appeared sweating. So I think there  
8 was an inconsistency between what he said in his report  
9 versus what the officer testified to, Officer Nelson.

10 MR. JAGELS: Your Honor, it was my  
11 recollection that Agent Beaumont indicated that he  
12 could have been wrong in speaking with Officer Nelson.

13 THE COURT: He admitted in evidence that his  
14 report said that he reported it about Brown.

15 MR. JAGELS: Yes, sir.

16 THE COURT: That's what the report says.

17 MR. JAGELS: Yes, sir.

18 THE COURT: Then he's bound by that.

19 MR. JAGELS: Yes, sir.

20 THE COURT: He's got to bear the consequence  
21 of a report that if it's wrong, it's wrong, and he  
22 bears the consequence of it.

23 MR. JAGELS: Yes, Your Honor.

24 THE COURT: I think, though, that we don't  
25 use the second paragraph of what's really the third

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1 A At that point I immediately passed him off to  
2 Officer Warren.

3 Q What did you do next?

4 A I went to deal with the passenger.

5 Q You had already gotten his identification. He had  
6 no outstanding warrants. What did you do with  
7 Mr. Brown?

8 A At that time I went up to the passenger side of  
9 the vehicle. I told Mr. Brown what was going on and  
10 that I needed him to step out of the car.

11 Q Did he comply?

12 A He got out of the car. I told him I was going to  
13 frisk him for weapons, make sure he had no weapons on  
14 him. At that point he attempted to, best described,  
15 walk away from me.

16 Q What did you do?

17 A At that point I stopped him, told him I needed him  
18 to put his hands on the car, and I started to do a  
19 frisk on his person.

20 Q What if anything did you feel while you were doing  
21 the frisk?

22 A While I was frisking him, I felt what appeared to  
23 be a weapon in his pocket.

24 Q His right pocket?

25 A Yes.